

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Joseph A. Porter,

Plaintiff,

Civ. No. 09-2536 (RHK/SRN)

ORDER

v.

Officer Mark McDonough and City of
Coon Rapids,

Defendants.

Having considered the parties' arguments on their Motions in Limine, for the reasons set forth below and for the reasons stated on the record at the January 5, 2011, hearing on these Motions, **IT IS ORDERED** as follows:

1. Defendants' Motion in Limine to Exclude the Expert Testimony of Vanness H. Bogardus (Doc. No. 36) is **GRANTED IN PART**, and Mr. Bogardus's testimony, if any, shall be limited to the topics set forth on the record. In light of the Court's ruling, it is unclear whether Plaintiff will continue to proffer Bogardus's testimony. If he intends to do so, any objections Defendants may have to the remaining portions of his testimony (if offered) will be considered by the Court at trial;

2. The Court **RESERVES** ruling on Defendant's Motion in Limine to Exclude Evidence of Other Incidents (Doc. No. 41). Counsel for Plaintiff is **ORDERED** to submit to the Court (a) a copy of the portions of McDonough's deposition in which he

was questioned about prior incidents, and (b) a list of which exhibits he intends to use at trial and a brief explanation of the purpose(s) for which such evidence will be proffered;

3. Plaintiff's Motion in Limine (Doc. No. 39) is **GRANTED IN PART** and **DEFERRED IN PART** as follows:

a. The Court **RESERVES** ruling on Paragraph 1 of Plaintiff's Motion (to exclude or limit evidence of Plaintiffs criminal history) at this time. Counsel for Defendants is **ORDERED** to submit to the Court a list of which, if any, of Plaintiff's prior criminal convictions they intend to introduce at trial;

b. Paragraph 2 of Plaintiff's Motion (to exclude the expert testimony of Mike Ficcadenti) is **GRANTED**, and Mr. Ficcadenti shall be excluded from proffering the opinions outlined in Plaintiff's Motion. Mr. Ficcadenti's testimony at trial shall be limited to those topics set forth on the record;

4. The Court **RESERVES** ruling on the parties' remaining objections to exhibits until they are offered at trial; and

5. Pursuant to Plaintiff's agreement at the January 5 hearing, Count II of the Complaint (Doc. No. 1, Attachment 1) is hereby **DISMISSED WITH PREJUDICE**.

Dated: January 6, 2011

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge